

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Commission on the Deaf and Hard of Hearing
(Amendment)

735 KAR 2:050. Processing of requests for services.

RELATES TO: KRS 12.290, 163.510(4)

STATUTORY AUTHORITY: KRS 12.290, 163.510(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 12.290 mandates that each department, program cabinet, and administrative body of state government shall promulgate administrative regulations to provide accessibility to all services by persons who are deaf or hard-of-hearing in compliance with federal mandates including 29 U.S.C. sec. 794, a part of the Rehabilitation Act of 1973, and 42 U.S.C. secs. 12101 et seq., a part of the Americans with Disabilities Act of 1990. KRS 163.510(4) requires the commission to oversee the provision of interpreter and Communication Access Realtime Translation (CART) captioning services to the deaf and hard of hearing. This administrative regulation establishes the process for requesting services from the KCDHH Interpreter Referral Services Program.

Section 1. (1) In accordance with the requirements of the Rehabilitation Act (29 U.S.C. 794) and the Americans with Disabilities Act (42 U.S.C. 12132), the KCDHH Interpreter Referral Services Program shall coordinate with~~[be provided to]~~ a state agency to provide services if:

(a)~~[Necessary to receive public service by an individual who is]~~ A deaf or hard of hearing individual requires access to services provided by a state agency;

(b)~~[Requested by]~~ A state agency authorizes services for an employee who is deaf or hard of hearing;

(c) Required under a provision of the Acts; or

(d) Necessary for a state agency to provide accessibility to a public event, as defined by the Acts.

(2) A request for services shall include the following information:

(a) Date and time of~~[interpreted]~~ event to be interpreted or captioned;

(b) Expected length of the interpreted or captioned event;

(c) Consumer (deaf or hard of hearing) and state agency names;

(d) Consumer communication preference (if known);

(e) Assignment location;

(f) Type of event to be interpreted or captioned, i.e. one-to-one situation, small group meeting, or platform presentation, etc;

(g) On-site contact person and phone number;

(h) A request for a specific interpreter or captioner; and

(i) Pertinent billing information including:

1. Purchase order or interaccount number;

2. Authorizing agency contact person; and

3. Billing address and phone number;

(j) Other information that would be beneficial to the interpreter or captioner, including:

1. Directions to the event location;~~[and]~~

2. Notice of special needs, including a tactile or oral interpreting request, a deaf interpreter,~~[or]~~ specialized vocabulary, or set up needs for captioning; and

3. Specific non-traditional attire requirements, if appropriate.

(3) An agency shall submit an interpreting or captioning services request by doing one of the following:

(a) Telephoning or emailing~~[By telephone to]~~ the staff of the KCDHH Interpreter Referral Services Program, which may then require completion of an online electronic request form through the KCDHH Web site;~~[(b) Faxed form;]~~

(b) Submitting an~~[(c)]~~ electronic request form~~[submittal]~~ directly, via~~[email or]~~ the KCDHH Web site~~[KCDHH WWW home page]; or [(d) Letter;~~

~~(e) In person; or]~~

(c) Videophone~~[(f) Videoconferencing]~~.

(4) A request for interpreting or captioning services shall be considered a binding agreement, in accordance with KRS Chapter 45A, between the requesting agency and the KCDHH Interpreter Referral Services Program, with the terms and conditions as outlined in this administrative regulation.

(5) Unless an emergency or other unforeseen circumstance arises preventing advance notice, an agency shall submit an interpreting or captioning request at least two (2) weeks prior to the assignment date. If an emergency or unforeseen circumstance occurs, KCDHH shall attempt to fill the request.~~[However, it may be impossible for KCDHH to fulfill the request for services.]~~

(6) Upon receiving a request for an interpreting or captioning assignment, the Interpreter Referral Services Program~~[KCDHH]~~ staff shall first attempt to schedule an assigned~~[a contract]~~ interpreter or captioner for the event, if one (1) is available and qualified. If there are no assigned~~[contract]~~ interpreters or captioners available, staff shall then attempt to schedule a staff interpreter or another captioner.

(7) If a specific interpreter or captioner is requested by an agency or consumer, the~~[KCDHH]~~ Interpreter Referral Services Program shall attempt to provide the requested person. However, the program shall not guarantee that a specific request will be honored.

(8) The KCDHH recognizes that the demand for interpreting services exceeds the existing supply of staff and freelance interpreters; therefore, the KCDHH shall hire and assign an interpreter or captioner based on the following criteria:~~[- in order of importance]~~

(a) Current and valid interpreter certification awarded by a nationally recognized organization, as outlined in 735 KAR 2:030;

(b) Meeting interpreter licensure requirements as outlined in KRS 309.300 to 309.319;

(c) Years of experience and references for captioners~~[Highly qualified, based on:~~

~~1. Years of interpreting experience;~~

~~2. Demonstrable interpreting skill, as evidenced by screening, or precertification level];~~

~~(d)[3.] Consumer preference is honored whenever possible; and~~

~~(e)[4.] Having no financial or personal conflict of interest, as defined by KRS Chapter 45A.~~

(9) The KCDHH Interpreter Referral Services Program staff shall notify the state agency of the name of the assigned interpreter or captioner.

(10) Due to the high demand for interpreting and captioning services and for specialized skills~~[skill]~~, the~~[KCDHH]~~ Interpreter Referral Services Program shall reserve the right to reassign an interpreter or captioner, as appropriate, based on skill level~~[and]~~, qualifications or regional location if fiscal constraints are evident. If an assigned interpreter or captioner is~~[should be]~~ reassigned, the~~[KCDHH]~~ Interpreter Referral Services Program staff shall notify the state agency of the name of the replacement assigned interpreter or captioner.

(11) The~~[KCDHH]~~ Interpreter Referral Services Program staff shall notify the assigned interpreter or captioner of the details of the assignment, including any communication preferences, special terminology, the date, the time and the location prior to the actual date of the assignment.

(12) The interpreter/captioner must inform the Interpreter Referral Services Program staff of any changes to their ability to keep the assignment.

(13) The Interpreter Referral Services Program is not responsible for fees associated with the assignment; however, interpreters or captioners are encouraged to notify the requesting agency of

their fees prior to accepting the assignment.

(14)[(42)] A client or consumer shall have the right to refuse the services of an interpreter or captioner and request a replacement. If a replacement is requested, Interpreter Referral Services Program staff[the service] shall try to fill the request if possible. However, the[KCDHH] Interpreter Referral Services Program shall not guarantee a replacement.

(15) The interpreter or captioner assigned to the event, and the requesting agency, shall notify the Interpreter Referral Services Program staff of any changes related to the assignment as soon as possible.

(16) The KCDHH Interpreter Referral Services Program does not guarantee that all interpreting or captioning requests will be filled. All requests are subject to:

(a) Prior-approval by the KCDHH Executive Director; or

(b) The availability of the appropriate interpreter(s) or captioner.

VIRGINIA L. MOORE, KCDHH Executive Director

APPROVED BY AGENCY: April 11, 2018

FILED WITH LRC: April 11, 2018 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 21, 2018, at 10:00 a.m. EST, at the Kentucky Commission on the Deaf and Hard of Hearing office located at 632 Versailles Road, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by May 14, 2018, five work-days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2018. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Virginia L. Moore, Executive Director, email virginia.moore@ky.gov, 632 Versailles Road, Frankfort, Kentucky 40601, phone (502) 573-2604 v/tty, fax (502) 573-3594 or Videophone (502) 416-0607.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Virginia L. Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does: 735 KAR 2:050 outlines the process for state agencies requesting an interpreter or captioner through the KCDHH Interpreter Referral Services Program, in order to provide accessible communication for state agency programs per KRS 12.290.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the provisions of KRS 163.510(4), which mandates that the KCDHH administer the Interpreter Referral Services Program, to meet the needs of deaf and hard of hearing individuals participating in services offered by state agencies. This regulation covers procedures for processing requests for communication services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by outlining procedures for processing requests for interpreting and captioning services.

(d) How this administrative regulation currently assists or will assist in the effective administra-

tion of the statutes: This administrative regulation outlines the process for state agencies to request interpreter or captioner services through the KCDHH Interpreter Referral Services Program, in order to provide services to deaf and hard of hearing individuals.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment adds additional guidance for state agencies making a request for interpreter or captioner services, and adds captioner services as another mode of communication primarily for hard of hearing individuals. It also delineates when services may be difficult to provide.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to add references to captioning services, and clarify the process of making a request for interpreting or captioning services through the Interpreter Referral Services Program.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment clarifies procedures for processing requests from state agencies for interpreters and captioners assigned by the Interpreter Referral Services Program to provide communication access for deaf and hard of hearing individuals.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies procedures for processing interpreter and captioning requests, from state agencies, through the Interpreter Referral Services Program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The 700,000 deaf and hard of hearing consumers in the Commonwealth that utilize interpreters or captioners to access state services will be better served and state agencies providing interpreter or captioning services will be in compliance with ADA requirements.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities identified in question (3) will not have to take any additional action to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no change in the cost for interpreter or captioner services requested through the Interpreter Referral Services Program because of the amendment to this regulation. Services are provided free of charge by the Interpreter Referral Services Program to state agencies, per KRS 163.510(4).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities requesting interpreting or captioning services will have additional instructions regarding the processing of requests for services through the Interpreter Referral Services Program, to stay in compliance with KRS 12.290.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no change in cost initially after implementation of this amendment as the Interpreter Referral Services Program is funded under the agency's budget.

(b) On a continuing basis: There will be no change in cost ongoing after implementation of this amendment as the Interpreter Referral Services Program is funded under the agency's budget. Continued indirect costs include 10% of the Executive Director's time to supervise the administration of this program.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Funds already allotted in KCDHH's annual budget will support the implementation and enforcement of this amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fees or funding is required to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established, or increased, by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied, or required, to implement this amendment as the program functions as part of the overall mission of KCDHH.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties fire departments, or school districts) will be impacted by this administrative regulation? State agencies utilizing the Interpreter Referral Services Program will benefit from the clarifications made in this amendment, in order to comply with ADA requirements.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. State statutory authority; KRS 12.290, KRS 163.510(4). Federal statutory authority; 29 U.S.C. Sec 794 and 42 U.S.C. Sec 12132.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire department, or school districts) for the first full year the administrative regulation is to be in effect. There is no change in expenditures and revenues of state government agencies because of this amendment.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated because of this amendment in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated because of this amendment in subsequent years.

(c) How much will it cost to administer this program for the first year? The Executive Director works within the agency's annual budget, as provided by the General Assembly, and monitored by the Commission Board per KRS 163.506, to support the Interpreter Referral Services Program. Costs will not increase in the first year because of this amendment.

(d) How much will it cost to administer this program for subsequent years? The Executive Director works within the agency's annual budget, as provided by the General Assembly, and monitored by the Commission Board per KRS 163.506, to support the Interpreter Referral Services Program. Costs will not increase in subsequent years because of this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): The Executive Director works within the agency's annual budget, as provided by the General Assembly and monitored by the Commission Board per KRS 163.506. There is no direct fiscal impact because of this amendment.

Expenditures (+/-): The Executive Director works within the agency's annual budget, as provided by the General Assembly, and monitored by the Commission Board per KRS 163.506. There is no direct expenditure impact because of this amendment.

Other Explanation: None

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. NA

2. State compliance standards. NA
3. Minimum or uniform standards contained in the federal mandate. NA
4. Will this administrative regulation impose stricter requirement, or additional or different responsibilities or requirements, than those required by the federal mandate? NA
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA